

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:06cv131**

**PAUL J. GREELEY, and wife, VIRGINIA)
GREELEY,)**

Plaintiffs,)

Vs.)

ORDER

**AUTO-OWNERS INSURANCE CO., a)
Michigan Corporation; BLACKWELL)
CONSTRUCTION, INC., a South)
Carolina Corporation; JERRY)
BLACKWELL and wife, SANDRA)
BLACKWELL,)**

Defendants.)

THIS MATTER is before the court on defendants Jerry Blackwell's and Sandra Blackwell's Motion to Dismiss (#5). In their response (#6), plaintiffs correctly point out that the moving defendants have not supported their Motion to Dismiss with a memorandum of law as required by Local Rule 7.2. The moving defendants have not replied to such response within the time provided by Local Rule 7.1(B).

Based on such showing, the court will summarily deny such defendants' Motion to Dismiss without prejudice. Further, it appearing that such misstep was unintentional, the court will reopen and enlarge the time for filing Answer or other responsive pleading for 10 days from the filing of this Order. The moving defendants are advised that if they wish to simply preserve Rule 12(b) defenses, they can include such defenses in their Answer to the Complaint without filing a brief; if, however, the moving defendants wish to pursue dismissal at this time, they can file a new motion to dismiss and support such motion with a memorandum of law showing that they are entitled to the relief they seek. L.R. 7.2. Any such brief should not exceed 25 double-spaced pages.

ORDER

IT IS, THEREFORE, ORDERED that Jerry Blackwell's and Sandra Blackwell's Motion to Dismiss (#5) is **DENIED** summarily without prejudice, and such defendants are **GRANTED** leave to Answer or otherwise respond to the Complaint in the manner discussed above within 10 days of the filing of this Order.

Signed: July 7, 2006

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

